NOTIFICATION.

(LAW DEPARTMENT)

No. LAW 24 LCA 67, Bangalore, dated 14th July 1967.

Ordered that the Unlawful Activities (Prevention) Bill 1967 (Bill No. 60 of 1967), which has been published in the *Gazette of India*, Extraordinary, Part II, Section 2, dated the 31st May 1967 be republished in the *Mysore Gazette*, for general information.

By Order and in the name of the Governor of Mysore,

H. K. ANANTHASUBBA RAO,
Under Secy. to Govt., L. D.

LOK SABHA

The following Bill was introduced in Lok Sabha on the 31st May, 1967 :—

BILL No. 60 OF 1967

A *Bill to provide for the more effective prevention of certain unlawful activities of individuals and associations and for matters connected therewith.*

BE it enacted by Parliament in the Eighteenth Year of the Republic of India as follows :—

CHAPTER I

PRELIMINARY

1. Short title and extent —(1) This Act may be called the Unlawful Activities (Prevention) Act, 1967.

(2) It extends to the whole of India.

2. **Definitions**.—In this Act, unless the context otherwise requires,—

(*a*) "association" means any combination or body of individuals, whether the same is known by any distinctive name or not ;

(*b*) "cession of a part of the territory of India" includes admission of the claim of any foreign country to any such part ;

(*c*) "prescribed" means prescribed by rules made under this Act ;

(*d*) "secession of a part of the territory of India from the Union" includes the assertion of any right to determine whether such part will remain a part of the territory of India ;

(*e*) "Tribunal" means the Tribunal constituted under section 5 ;

(*f*) "unlawful activity", in relation to an individual or association, means any action taken by such individual or association (whether by committing an act or by words, either spoken or written, or by signs or by visible representation or otherwise)—

(i) which is intended, or supports any claim, to bring about on any ground whatsoever the cession of a part of the territory of India or the secession of a part of the territory of India from the Union or which incites any individual or group of individuals to bring about such cession or secession ;

(ii) which disclaims or questions the sovereignty of India in respect of any part of the territory of India ;

(iii) Which disrupts or is intended to disrupt the integrity of India ;

(*g*) "unlawful association" means any association which has for its object any unlawful activity, or which encourages or aids persons to undertake any unlawful activity, or of which the members habitually undertake such activity.

CHAPTER II

UNLAWFUL ASSOCIATIONS

3. Declaration of an association as unlawful.—(*1*) If the Central Government is of opinion that any association is, or has become, an unlawful association, it may, by notification in the Official Gazette, declare such associations to be unlawful.

(*2*) Every such notification shall specify the grounds on which it is issued and such other particulars as the Central Government may consider necessary:

Provided that nothing in this sub section shall require the Central Government to disclose any fact which it considers to be against the public interest to disclose.

(*3*) No such notification shall have effect until the Tribunal has, by an order made under section 4, confirmed the declaration made therein and the order is published in the Official Gazette:

Provided that if the Central Government is of opinion that circumstances exist which render it necessary for that Government to declare an association to be unlawful with immediate effect, it may, for reasons to be stated in writing, direct that the notification shall, subject to any order that may be made under section 4, have effect from the date of its publication in the Official Gazette.

(*4*) Every such notification shall, in addition to its publication in the Official Gazette, be published in not less than one daily newspaper having circulation in the State in which the principal office if any, of the association affected is situated, and shall also be served on such association in

such manner as the Central Government may think fit and all or any of the following modes may be followed in effecting such service, namely :—

(*a*) by affixing a copy of the notification to some conspicuous part of the office, if any, of the association ; or

(*b*) by serving a copy of the notification, where possible, on the principal office-bearers, if any, of the association ; or

(*c*) by proclaiming by beat of drum or by means of loudspeakers, the contents of the notifications in the area in which the activities of the association are ordinarily carried on ; or

(*d*) in such other manner as may be prescribed.

4. Reference to Tribunal.—(*1*) Where any association has been declared unlawful by a notification issued under sub-section (*1*) of section 3, the Central Government shall, within thirty days from the date of the publication of the notification under the said sub-section, refer the notification to the Tribunal for the purpose of adjudicating whether or not there is sufficient cause for declaring the association unlawful.

(*2*) On receipt of a reference under sub-section (*1*), the Tribunal shall call upon the association affected by notice in writing to show cause, within thirty days from the date of the service of such notice, why the association should not be declared unlawful.

(*3*) After considering the cause, if any, shown by the association or the office-bearers or members thereof, the Tribunal shall hold an inquiry in the prescribed manner and after calling for such further information as it may consider necessary from the Central Government or from any office-bearer or the member of the association, it shall decide whether or not there is sufficient cause for declaring the association to be unlawful and make, as expeditiously as possible, such order as it may deem fit either confirming

the declaration made in the notification or cancelling the same.

(4) The order of the Tribunal made under sub-section (3) shall be published in the Official Gazette.

5. **Tribunal.**—(1) The Central Government may, by notification in the Official Gazette, constitute, as and when necessary, a tribunal to be known as the "Unlawful Activities (Prevention) Tribunal" consisting of a Chairman and two other members to be appointed by the Central Government.

(2) The Chairman of the Tribunal shall be a person who is, or has been, a Judge of a High Court and the members thereof shall be persons who are qualified to be Judges of High Court.

(3) A person shall be disqualified for being appointed or for continuing as a member of the Tribunal if he has directly or indirectly any interest in any association which has been declared unlawful under section 3.

(4) The Chairman or any other member of the Tribunal may resign his office by writing under his hand address to the Central Government, but shall continue in office until the appointment of his successor is notified in the Official Gazette.

(5) A casual vacancy caused by the resignation of the Chairman or any other member of the Tribunal under sub-section (4) or otherwise shall be filled by fresh appointment.

(6) No act or proceeding of the Tribunal shall be invalid by reason only of the existence of any vacancy amongst its members or any defect in the constitution thereof.

(7) The Chairman and other members of the Tribunal shall receive such remuneration and shall be governed by such conditions of service as the Central Government may determine:

Provided that the remuneration of the Chairman or any other member shall not be varied to his disadvantage after his appointment.

(8) The Central Government shall make available to the Tribunal such staff as may be necessary for the discharge of its functions under this Act.

(9) All expenses incurred in connection with the Tribunal shall be defrayed out of the Consolidated Fund of India.

(10) The Tribunal shall have power to regulate its own procedure in all matters arising out of the discharge of its functions including the place or places at which it will hold its sittings.

(11) In the case of a difference of opinion among the members of the Tribunal, the opinion of the majority shall prevail and orders of the Tribunal shall expressed in terms of the views of the majority;

(12) The Tribunal shall, for the purpose of making an inquiry under this Act, have same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908) while trying a suit, in respect of following matters, namely :

(a) the summoning and enforcing the attendance of any witness and examining him on oath;
(b) the discovery and production of any document or other material object producible as evidence;
(c) the reception of evidence on affidavits;
(d) the requisitioning of any public record from any court or office;
(e) the issuing of any commission for the examination of witnesses;

(13) Any proceeding before the Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code (45 of 1860) and the Tribunal shall be deemed to be a civil court for the purposes of section 195 and Chapter XXXV of the Code of Criminal Procedure, 1898 (5 of 1898).

6. Period of operation and cancellation of not fication — (1) Subje t to the provisions of sub section (2), a n tificatio nissued under section 3 shall, if the declaration made therein is confirmed by the Tribunal by an ord r ma le nud r section 4, remain in force for a per od of two years from the date on wh ch the notifica i n b comes effective.

Provid d that if the Central Government cons:d rs that since the issu : of the notification there has be n no material chang in the circumstances und r which the notification was issued, the Central Gove rnment may, from time to time, extend the period of op ration of the notification by any peri d not exceeding one year at a time.

(2) Notwithstanding anything contained in sub-section (1) the Central Government may, either on i s own motion or on the application of any perso n aggrieved, at any time, cancel the notification issued under section 3, whether or not the declaration made therein has been confirmed by the Tribunal.

7. Power to prohibit the use of funds of an unlawful association.—(1) Where an association has been declared unlawful by a notification issued under section 3 which has become effective under sub-section (3) of that section and the Central Government is satisfied, after such inq uiry as it may think fit, that any person has custody of any moneys, securities or credits which are being used or are intended to be used for the purpose of the unlawful association, the Central Government may, by order in writing, prohibit such person from paying, delivering, transferring or otherwise dealing in any manner whatsoever with such moneys, securities or credits or with any other mon-ys, secur ties or credits which may come into his custody after the making of the order, save in accordance with the writt n orders of the Central Government and a copy of such order shall be served upon the person so prohibited in such manner as may be prescribed.

(2) The Central Government may endorse a copy of the prohibitory order made under sub- section (1) for investigation to any officer it may select, and such copy shall be

a warrant where under such officer may enter in or upon any premises of the person to whom the order is directed, examine the books of such person, search for moneys, securities and credits, and make inquiries from such person or any officer, agent or servant of such person, touching the origin of any dealings in any moneys, securities or credits which the investigating officer may suspect are being used or are intended to be used for the purposes of the unlawful association.

(3) A copy of an order made under this section may be served in the manner provided in the Code of Criminal Procedure, 1898 (5 of 1898), for the service of a summons, or, where the person to be served is a corporation, company, bank or association of persons, it may be served on any secretary, director or other officer or person concerned with the management thereof, or by leaving it or sending it by post addressed to the corporation, company, Bank or association at its registered office, or where there is no registered office at the place where it carries on business.

(4) Any person aggrieved by a prohibitory order made under sub-section (1) may, within fifteen days from the date of the service of such order, make an application to the Court of the District Judge within the local limits of whose jurisdiction such person voluntarily resides or carries on business or personally works for gain, to establish that the moneys, securities, or credits in respect of which the prohibitory order has been made are not being used or are not intended to be used for the purpose of the unlawful association and the Court of the District Judge shall decide the question.

(5) Except so far as is necessary for the purposes of any proceedings under this section, no informations obtained in the course of any investigations made under sub-section (2) shall be divulged by any officer of Government, without the consent of the Central Government.

(6) In this section, "security" includes a document whereby any person acknowledges that he is under a legal

liability to pay money, or whereunder any person obtains a legal right to the payment of money.

8. **Power to notify places used for the purpose of an unlawful association.**—(1) Where an association has been declared unlawful by a notification issued under section 8 which has become effective under sub-section (3) of that section, the Central Government may, by notification in the Official Gazette, notify any place which in its opinion is used for the purposes of such unlawful association.

Explanation.—For the purposes of this sub-section, "place" includes a house or building, or part thereof, or a tent or vessel.

(2) On the issue of a notification under sub-section (1), the District Magistrate within the local limits of whose jurisdiction such notified place is situate or any officer authorised by him in writing in this behalf shall make a list of all movable properties found in the notified place in the presence of two respectable witnesses.

(3) If, in the opinion of the District Magistrate, any articles specified in the list are or may be used for the purposes of the unlawful association, he may make an order prohibiting any person from using the article save in accordance with the written orders of the District Magistrate.

(4) The District Magistrate or any officer authorised by him in writing in this behalf may thereupon make an order that no person who at the date of the notification was not a resident in the notified place shall, without the permission of the District Magistrate, enter, or be on or in, the notified place.

(5) Where in pursuance of sub-section (4), any person is granted permission to enter, or to be on or in the notified place, that person shall, while acting under such permission, comply with such orders for regulating his conduct as may be given by the District Magistrate.

(6) Any police officer or any other person authorised in this behalf by the Central Government may search any

person entering, or seeking to enter, or being on or in the notified place and may detain any such person for the purpose of searching him:

Provided that no famale shall be searched in pursuance of this sub-section except by a female.

(7) If any person is in the notified place in contravention of an order made under sub-section (4), then, without prejudice to any other proceedings which may be taken against him, he may be removed therefrom by any officer or by any other person authorised in this behalf by the Central Government.

(8) Any person aggrieved by a notification issued in respect of a place under sub-section (1) or by an order made under sub-section (3) or sub-section (4) may, within thirty days from date of the notification or order, as the case may be, make an application to the Court of the District Judge within the local limits of whose jurisdiction such notified place is situate—

(*a*) for declaration that the place has not been used for the purposes of the unlawful association; or

(*b*) for setting aside the order made under sub-section (3) or sub-section (4),

and on receipt of the application, the Court of the District Judge shall, after giving the parties an opportunity of being heard, decide the question.

9. Procedure to be followed in the disposal of applications under this Act.—Subject to any rules that may be made under this Act, the procedure to be followed by the Tribunal in holding any inquiry under sub-section (3) of section 4 or by a Court of the District Judge in disposing of any application under sub-section (4) of section 7 or sub-section (8) of section 8 shall, so far as may be, be the procedure laid down in the Code of Civil Procedure, 1908, (5 of 1908) for the investigation of claims and the decision of the Tribunal or the Court of the District Judge, as the case may be, shall be final.

CHAPTER III

OFFENCES AND PENALTIES

10. Penalty for being members of an unlawful association.—Whoever is a member of an association declared unlawful by a notification issued under section 3 which has become effective under sub-section (3) of that section, or takes part in meetings of any such unlawful association, or contributes to, or receives or solicits any contribution for the purpose of, any such unlawful association, or in any way assists the operations of any such unlawful association, shall be punishable with imprisonment for a term which may extend to three years, and shall also be liable to fine.

11. Penalty for dealing with funds of an unlawful association.—If any person on whom a prohibitory order has been served under sub-section (1) of Section 7 in respect of any moneys, securities or credits pays, delivers, transfers or otherwise deals in any manner whatsoever with the same in contravention of the prohibitory order, he shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both, and notwithstanding anything contained in the Code of Criminal Procedure, 1898, (5 of 1898), the court trying such contravention may also impose on the person convicted an additional fine to recover from him the amount of the moneys or credits or the market value of the securities in respect of which the prohibitory order has been contravened or such part thereof as the court may deem fit.

12. Penalty for contravention of an order made in respect of a notified place.—(1) Whoever uses any article in respect of which a prohibitory order has been made under sub-section (3) of Section 8 shall be punishable with imprisonment for a term which may extend to three years, and shall also be liable to fine.

(2) Whoever is in, or effects or attempts to effect entry into, a notified place in cotravention of an order made under sub-section (1) of Section 8 shall be punishable

with imprisonment for a term which may extend to three years, and shall also be liabe to fine.

(3) Notwithstanding anything contained in the Code of Criminal Procedure 1898, (5 of 1898), an offence punishable under sub-section (1) or sub-section (2) shall be cognizable.

13. Punishment for unlawful activities.—(1) Whoever—

(*a*) takes part in or commits, or

(*b*) advocates, abets, advises or incites the commission of, any unlawful activity, shall be punishable with imprisonment for a term which may extend to ten years, and shall also be liable to fine.

(2) Whoever, in any way, assists any unlawful activity of any association, declared unlawful under section 3, after the notification by which it has been so declared has become effective under sub-section (3) of that section, shall be punishable with imprisonment for a term which may extend to seven years, or with fine, or with both.

(3) Nothing in this section shall apply to any treaty, agreement or convention entered into between the Government of India and the Government of any other country or to any negotiations therefor carried on by any person authorised in this behalf by the Government of India.

CHAPTER IV.

MISCELLANEOUS

14. Continuance of association.—An association shall not be deemed to have ceased to exist by reason only of any formal act of its dissolution or change of name but shall be deemed to continue so long as any actual combination for the purposes of such association continues between any members thereof.

15. Power to declare succeeding association to be unlawful.—If the Central Government is satisfied that any

association is engaged, in succession to any association which has been declared to be unlawful under this Act, in activities substantially similar to those formerly carried on thereby, that Government may, by a notification in the Official Gazette, declare such succeeding association to be unlawful and thereupon the provisions of this Act shall apply to the succeeding association.

16. Bar of jurisdiction.—Save as otherwise expressly provided in this Act, no proceeding taken under this Act by the Central Government or the District Magistrate or any officer authorised in this behalf by the Central Government or the District Magistrate shall be called in question in any court in any suit or application or by way of appeal or revision, and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

17. Prosecution for offences under this Act.—No court shall take cognizance of any offence punishable under this Act except with the previous sanction of the Central Government or any officer authorised by the Central Government in this behalf.

18. Protection of action taken in good faith.—(1) No suit or other legal proceeding shall lie against the Central Government in respect of any loss or damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act or any rules or orders made thereunder.

(2) No suit, prosecution or other legal proceeding shall lie against the District Magistrate or any officer authorised in this behalf by the Central Government or the District Magistrate in respect of anything which is in good faith done or intended to be done in pursuance of this Act or any rules or orders made thereunder.

19. Power to delegate.—The Central Government may by notification in the Official Gazette, direct that all or any of the powers which may be exercised by it under

section 7, or section 8, or both, shall, in such circumstances and under such conditions, if any as may be specified in the notification, be exercised also by any State Government and the State Government may, with the previous approval of the Central Government, by order in writing direct that any power which has been directed to be exercised by it shall, in such circumstances and under such conditions, if any, as may be specified in the direction, be exercised by any person subordinate to the State Government as may be specified therein.

20. Effect of Act and rules, etc., inconsistent with other enactments.—The provisions of this Act or any rule or order made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or any instrument having effect by virtue of any enactment other than this Act.

21. Power to make rules.—(1) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—,

(*a*) the service of notices or orders issued or made under this Act and the manner in which such notices or orders may be served, where the person to be served is a corporation, company, bank or association ;

(*b*) the procedure to be followed by the Tribunal or a District Judge in holding any inquiry or disposing of any application under this Act ;

(*c*) any other matter which has to be, or may be, prescribed.

(3) Every rule made by the Central Government under this section shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in

one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Pursuant to the acceptance by Government of a unanimous recommendation of the Committee on National Integration and Regionalism appointed by the National Integration Council, the Constitution (Sixteenth Amendment) Act, 1963, was enacted empowering Parliament to impose, by law, reasonable restrictions in the interests of sovereignty and integrity of India, on the.—

(*i*) freedom of speech and expression ;

(*ii*) right to assemble peaceably and without arms ; and

(*iii*) right to form associations or unions.

2. The object of this Bill is to make powers available for dealing with activities directed against the integrity and sovereignty of India.

NEW DELHI;
The 23rd May, 1967.

Y. B. CHAVAN.

FINANCIAL MEMORANDUM

Clause 5 of the Unlawful Activities (Prevention) Bill, 1967 provides for the constitution of a Tribunal, to be known as the Unlawful Activities (Prevention) Tribunal, consisting of a Chairman and two other members to be appointed by the Central Government. All expenses to be incurred in connection with the Tribunal would be met from the Consolidated Fund of India. It will be constituted as and when necessary. The expenditure is not expected to be large and is not likely to exceed Rs. 99,210 during the year in which such a Tribunal is constituted.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 21 of the Bill empowers the Central Government to make rules to carry out the purposes of the Bill. The matters in respect of which rules may be made relate, *inter alia*, to the service of notices or orders issued or made under the Bill and the manner in which such notices or orders may be served, where the person to be served is a corporation, company, bank or association; the procedure to be followed by the Tribunal or a District Judge in holding any inquiry or disposing of any application under the Bill. These matters pertain to procedure or detail necessary for the effective administration of the provisions of this Bill and as such the delegation of legislative power is of a normal character.

2. Clause 19 of the Bill empowers the Central Government to direct the State Government to exercise all or any of the powers exercisable by it under the Bill and further empowers the State Government to direct, with the previous approval of the Central Government, any person subordinate to the State Government, to exercise any power which has been directed to be exercised by the State Government. The delegation to the State Government of any power exercisable by the Central Government under the Bill is necessary for the effective administration of the Bill and is of a normal character.

S. L. SHAKDHER,
Secretary.

Printed by the Director of Printing, Sty. & Publications at the Govt. Press, Bhopal.